

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: LOCAL RULES

Misc. 7673

ORDER

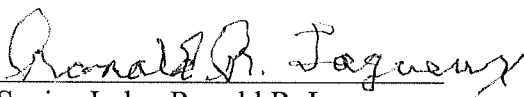
Pursuant to 28 U.S.C. § 2071, Fed. R. Civ. P. 83(a)(1) and Fed. R. Crim. P. 57(a)(1), this Court hereby approves amendments to the Local Rules of the United States District Court for the District of Rhode Island, effective January 3, 2011. The Local Rules, as amended, shall govern all proceedings in this Court that are pending, commenced or re-opened on and after that date. A copy of the amended local rules is attached to this Order.



Chief Judge Mary M. Lisi



Judge William E. Smith



Senior Judge Ronald R. Lagueux

Date: 12/20/10

LR Gen 101 SCOPE AND PURPOSE OF RULES

- (a) **Title.** These Local Rules are adopted pursuant to Title 28 United States Code, Section 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, and shall be known and cited as the Local Rules of the United States District Court for the District of Rhode Island (“Local Rules” or “DRI LR ____”).
- (b) **Effective Date.** These Local Rules shall become effective on January 1, 2006 and shall apply to all cases then pending and thereafter filed, subject to any amendments adopted thereafter.
- (c) **Applicability.** These Local Rules and any amendments shall apply to all proceedings in the United States District Court for the District of Rhode Island; provided, however, that if the Court determines that exceptional circumstances exist in which application of a Rule would create an injustice or undue hardship, the Court may suspend the operation of that Rule under those circumstances. In addition to these rules, all parties must comply with any and all pretrial order(s) issued in any case, except where they conflict in which case the pretrial order(s) shall govern.
- (d) **Previous Rules and Orders Superseded.** All prior rules, standing orders and general orders are superseded and abrogated.
- (e) **Construction.** These Rules should be construed consistently with other applicable statutes and rules to secure the just, speedy and inexpensive determination of all proceedings before the Court.
- (f) **Definitions.**
 - (1) “Court” refers to the judge or judicial officer before whom a proceeding is pending, unless otherwise stated or unless the context in which the term is used plainly requires otherwise.
 - (2) “Conventionally Filed/Served” means documents presented to the Court or party in paper or other non-electronic format.
 - (3) “Document” means any written matter filed by or with the Court, whether filed conventionally or electronically, including but not limited to motions, objections, pleadings, applications, petitions, notices, declarations, stipulations, affidavits, exhibits, briefs, memoranda of law and orders.
 - (4) “ECF” means the Court’s Electronic Case Filing System, which is an automated system that receives and stores documents in electronic form.

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- (5) “Electronic Filing” or “Electronically Filed” means the transmission of a document in Portable Document Format (“PDF”) for filing using the ECF system facilities.
- (6) “Filing User” means those attorneys who have a court-issued login and password to file documents electronically in this judicial district.
- (7) “Main Document” means motions, objections, replies, stipulations, waivers, notices and other pleadings, but does not include attachments or exhibits to such pleadings.
- (8) “NEF” means Notice of Electronic Filing, which is the email notice automatically generated by ECF each time a document is electronically filed.
- (9) “PDF” means Portable Document Format. This includes both “Electronically Converted PDF Documents,” which are created from a word processing system (MS Word, WordPerfect, etc.) using PDF creation software and are text-searchable, and “Scanned PDF Documents,” which are created from paper documents run through a scanner and can be made text-searchable.
- (10) “Megabyte” (MB) is the amount of computer storage needed to store 1,048,576 characters, which is equivalent to approximately 260 pages of an “Electronically Converted PDF Document” or 20 pages of a “Scanned PDF Document”.
- (11) A “Page” from a PDF document for purposes of these rules must be the equivalent of a “page” from a conventionally filed (paper) document which was prepared to conform with the requirements of these Local Rules.

Effective 1/3/11: §§ (f) and (g) incorporated into new § (f). Effective 1/5/09: § (b) amended, and § (g) added.

LR Gen 102 DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION

(a) Privacy Protections.

- (1) In General.** In compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and the policy of the Judicial Conference of the United States, and in order to address the privacy concerns created by Internet access to court documents, parties or non-parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court:
 - (a) MINORS' NAMES: Use of the minors' initials only;
 - (b) SOCIAL SECURITY NUMBERS: Use of the last four numbers only;
 - (c) DATES OF BIRTH: Use of the year of birth only;
 - (d) FINANCIAL ACCOUNT NUMBERS: Identify the type of account and the financial institution, but use only the last four numbers of the account number; and
 - (e) HOME ADDRESSES: Use the city and state only (in criminal cases only).
- (2) Responsibility for Removing Personal Information.** It is the responsibility of any party or non-party filing a document, not the Clerk's Office, to review each document to determine if pleadings must be modified and are in the proper form.
- (3) Corrective Action.** In cases where the above personal information does appear on documents filed with the Court, the party or non-party responsible for the filing shall file a Motion to Redact, along with a redacted version of the document containing personal information in compliance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1 and Judicial Conference policy. Upon receipt of the Motion to Redact, the Clerk shall grant the motion by text order, restrict the document containing the above personal information from the docket, and replace it with the redacted version

(b) Sealed Documents Generally.

- (1) Documents filed with the Court may not be sealed unless ordered by the Court. If a party or non-party filing a document has a good faith basis for believing that a document should be sealed, the document shall be accompanied by a motion to seal, which explains why the document should be sealed.
- (2) Unless the Court otherwise permits, if a party or non-party has good reason to believe that a document that such party or non-party proposes to file contains material that another party or non-party would maintain is confidential, the

document shall not be filed until such other party or non-party has been notified and afforded an opportunity to file a motion to seal.

- (3) If only a portion of a document contains confidential information, the party or non-party requesting sealing shall file both an unredacted version of the document and a redacted version that excises the confidential information.
 - (4) The motion to seal shall not be filed electronically, but shall be filed by hand or by mail, together with the documents or materials which are the subject of the motion.
- (c) **Filing of Sealed Documents in Civil Cases.** Upon receipt of a motion to seal in a civil case, the clerk shall docket the motion but not the documents which are the subject of the motion and shall immediately transmit the motion and documents to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal and unless otherwise ordered by the Court, the sealed envelope shall be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.
- (d) **Filing of Sealed Documents in Criminal Cases.** Upon receipt of a motion to seal in a criminal case, the clerk shall immediately transmit the motion and the documents which are the subject of the motion to the chambers of the judge to whom the case has been assigned. If the Court grants the motion to seal, the motion to seal, the order granting the motion to seal, and the sealed documents shall be placed in an envelope which shall be sealed and to which a copy of the Court's order shall be affixed. The envelope shall then be retained by the clerk in a secure location until further order of the Court. If the Court denies the motion to seal, the motion shall be docketed and filed in accordance with these Local Rules, and the memorandum and the documents accompanying the motion shall be returned to the filer, unless otherwise ordered by the Court.
- (e) **Unsealing of Documents.** Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court *sua sponte*, provided that the parties first are given notice and an opportunity to be heard.

Effective 1/3/11: §§ (a), (b), and (c) amended; §§ (a), (b), (c), and (d) redesignated as §§ (b), (c), (d), and (e); new § (a) added. Effective 3/17/08: §§ (a)(4), (b) and (c) amended.

**LR Gen 107.1 ELECTRONIC AVAILABILITY AND REDACTION OF
TRANSCRIPTS OF COURT PROCEEDINGS**

- (a) **Applicability.** The 90-day restriction policy and the redaction procedures for transcripts listed below apply only to transcripts of federal court proceedings. Other transcripts, except those exempt under Fed. R. Civ. P. 5.2(b) and Fed. R. Crim. P. 49.1(b), will be subject to the redaction requirements contained in these rules if they are filed with this Court.
- (b) **Restricted Availability of Transcripts for First 90 Days after Filing.** Transcripts will be e-filed by the court reporter or transcriber through CM/ECF, and they will be available at the Clerk's Office, for viewing only, for a period of 90 days after filing.
- (c) **Review of Transcripts.** Once a transcript is filed, counsel of record (and unrepresented parties) must review the transcript and request redaction of any personal identifiers listed in Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and LR Gen 102. Unless otherwise ordered by the court, the following portions of the transcript must be reviewed: opening and closing statements made on the party's behalf; statements of the party; the testimony of any witnesses called by the party; sentencing proceedings (both the government and the defendant must review the transcript); and any other portion of the transcript as ordered by the court.
 - (1) **"Standby" Counsel and CJA Attorneys.** An attorney who is serving as appointed "standby" counsel for a *pro se* litigant must review the transcript as if the *pro se* party were his/her client. If an attorney represents a client pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review of the transcript is entitled to compensation under the CJA for functions reasonably performed to fulfill this obligation and for reimbursement of related reasonable expenses.
- (d) **Redaction Requests.**
 - (1) **Procedure.** If counsel of record (or an unrepresented party) seeks a redaction of personal identifiers, a document entitled "Redaction Request" must be electronically filed within 21 days, or longer if the Court so orders, from the filing of the original transcript, indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted.
 - (2) **Time Limits.** If a Redaction Request or a Motion to Extend Time is not timely filed, no redactions will be made, and the original transcript will be remotely publicly available after 90 days.

- (3) **Additional Redactions.** If a party wishes to request redactions in addition to personal identifiers, a separate Motion for Redaction of Transcript must be filed within 21 days from the filing of the original transcript. Until the Court has ruled on any such motion, the transcript will not be electronically available, even if the 90-day restriction period has ended.
- (4) **Filing of Redacted Transcripts.** If a Redaction Request is filed, the court reporter or transcriber must perform the requested redactions and file a redacted version of the transcript within 31 days, or longer if the Court so orders, from the filing of the original transcript. Unless the Court orders the original unredacted electronic transcript to be sealed, it will be retained by the Clerk and will be available, for viewing only, at the public terminal at the Courthouse and remotely electronically available to any attorney of record who has purchased a copy from the court reporter.
- (e) **Purchase of Transcripts.** During the 90-day period, a copy of the transcript, in paper or electronic form, may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will be available, for viewing only, at the public terminal at the Courthouse and remotely electronically available to any attorney of record who has purchased a copy from the court reporter.
- (f) **Availability of Transcripts after 90 days.** After the 90-day period has ended, the transcript will be available remotely to view, download or print through PACER, and to view and print at the Clerk's Office.
 - (1) **Redacted Transcripts.** If a redacted transcript is filed with the Court, the redacted transcript will be remotely electronically available to the public through PACER after 90 days from the date of filing of the original transcript. Remote access to the original unredacted transcript will remain restricted, but both the original transcript and the redacted transcript will be available for viewing at the Clerk's Office unless the Court orders the original transcript to be sealed.
- (g) **Transcripts of Petit Jury Empanelments.**
 - (1) Whenever a court reporter receives a request for a transcript of a petit jury empanelment, the reporter will prepare two (2) versions of the transcript: one complete, unredacted version and one redacted version. The redacted version will have the juror names and any sidebars redacted.
 - (2) Redaction of juror names means that only the first full name and last initial of the juror will be used by the court reporter in preparing the transcript. Redaction of a sidebar will result in a complete elimination of the sidebar from the transcript.

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- (3) The redacted transcript will be e-filed by the court reporter in accordance with, and be subject to, the provisions of this Rule.
- (4) The complete, unredacted transcript will be e-filed by the court reporter for “restricted” viewing only by the Court and the parties. The “restricted” availability of the transcript to the parties will also be governed by the availability provisions of this Rule during the first 90 days after filing.
- (5) If a non-party requests a complete, unredacted copy of a petit jury empanelment transcript, the request will be sent to the presiding judge in that case, and the presiding judge will make a determination as to whether or not the complete, unredacted copy should be provided to the non-party.

Effective 1/3/11: Rule added.

LR Gen 109 BANKRUPTCY

- (a) **References and Withdrawals of References of Bankruptcy Cases.** All cases arising under Title 11 shall be referred automatically to the bankruptcy judge(s) of this District. The reference of any case or proceeding or any portion thereof may be withdrawn at any time by the District Court, *sua sponte*, or, for good cause shown, upon the motion of any party. A motion for withdrawal of a reference shall not automatically stay any proceeding, but the District Court in its discretion may order a stay.
- (b) **Filings in Bankruptcy Cases.** The bankruptcy clerk shall maintain all files in bankruptcy cases referred by the District Court. Except with respect to appeals, cases in which the reference has been withdrawn, or other matters pending before the District Court, all documents filed in such cases shall be filed with the bankruptcy clerk.
- (c) **Jury Trials in Bankruptcy Court.** Pursuant to 28 U.S.C. § 157(e), a bankruptcy judge may conduct jury trials in bankruptcy proceedings where the right to a jury trial applies and all parties have consented.
- (d) **Reports and Recommendations by Bankruptcy Judge.**
 - (1) **Time for Objections.** Any objection to proposed findings of fact and/or rulings of law by a bankruptcy judge in a non-core proceeding shall be filed and served within fourteen (14) days after such proposed findings and rulings are served on the objecting party.
 - (2) **Content of Objections.** Any objection to the proposed findings of fact and/or rulings of law shall be accompanied by (A) a memorandum of law specifying the proposed findings and/or rulings to which objection is made and the basis for the objection(s), and (B) a transcript of any evidentiary hearing(s) before the bankruptcy judge. The memorandum shall comply with LR Cv 7.
 - (3) **Responses and Replies.** A response to an objection shall be served and filed within fourteen (14) days after the objection is served. The objecting party may serve and file a reply to the response within fourteen (14) days thereafter. Any response and /or reply shall comply with LR Cv 7. Unless otherwise permitted or required by the Court, nothing further shall be filed in support of or in opposition to an objection to a bankruptcy judge's proposed findings of fact and rulings of law.
- (e) **Appeals to Bankruptcy Appellate Panel.** In accordance with 28 U.S.C. §158(b)(6), when all parties consent, appeals from any judgment, order or decree of a bankruptcy judge which are referred to in 28 U.S.C. § 158(a) may be heard and determined by the Bankruptcy Appellate Panel for the First Circuit.

- (f) **Appeals to District Court.** Except as otherwise provided in this subsection (f) or elsewhere in these rules, or unless otherwise ordered by the District Court, appeals or motions for leave to appeal to the District Court from any judgment, order or decree of a bankruptcy judge shall be governed by the applicable provisions of Rules 8001 - 8020 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), and any and all Interim Bankruptcy Rules (“Interim Rules”) which became effective on or after October 17, 2005.
- (1) **Notice of Appeal.** When a notice of appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the notice of appeal to the District Court clerk, together with a copy of the judgment, order or decree that is the subject of the appeal and the Appeal Cover Sheet. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Interim Rule 8001(f)(2), the matter shall not be deemed “pending” in this Court until the record has been transmitted and docketed.
- (2) **Motion for Leave to Appeal.** When a motion for leave to appeal is filed with the bankruptcy clerk, the bankruptcy clerk shall, forthwith, transmit a copy of the motion to the District Court clerk, together with copies of the notice of appeal, the judgment, order or decree that is the subject of the proposed appeal, and any memorandum of counsel submitted in support of or in opposition to the motion. The District Court clerk, thereupon, shall treat the matter administratively as a newly filed case, but in accordance with Interim Rule 8001(f)(2), the matter shall not be deemed “pending” in this Court until leave to appeal has been granted.
- (3) **Requests for Certification.** Any request by a party for the certification of an appeal directly to the Court of Appeals filed in the District Court pursuant to 28 U.S.C. 158(d)(2) and Interim Rule 8001(f) shall be in the form of a motion complying with LR Cv 7.
- (4) **Extensions of Time by a Bankruptcy Judge.** Extensions of time for filing notices of appeal may be granted by the bankruptcy judge in accordance with Bankruptcy Rule 8002(c). Extensions of time for filing motions for leave to appeal and designations of the record or issues on appeal may be granted by the bankruptcy judge for a period not to exceed thirty (30) days.
- (5) **Dismissal of Appeals by Bankruptcy Judge.** A bankruptcy judge may dismiss an appeal if:
- (A) the notice of appeal is not filed within the time specified in Bankruptcy Rule 8002;

- (B) the appellant has failed to file a designation of the record or a statement of the issues within the time specified in Rule 8006 or any extension thereof; or
 - (C) the appellant has failed to comply with paragraph (6)(C) of this subsection.
- (6) **Record on Appeal.** In addition to any other applicable requirements, the Bankruptcy Court clerk shall ensure that the record electronically transmitted to the District Court clerk includes:
 - (A) the judgment, order or decree of the bankruptcy judge that is the subject of the appeal;
 - (B) any written decision(s) and a transcript of any oral decision(s) by the bankruptcy judge stating the reasons for the judgment(s), order(s) and/or decree(s) referred to in subparagraph (A);
 - (C) the record on appeal;
 - (D) a statement of the issues on appeal; and,
 - (E) a copy of the docket sheet.
- (7) **Form of and Schedule for Filing Briefs.** Unless otherwise ordered by the District Court or provided in these rules, the form and schedule for filing appellate briefs and memoranda shall be governed by Bankruptcy Rule 8009, except that:
 - (A) all briefs, memoranda and appendices thereto shall conform to the applicable requirements of LR Cv 7; and
 - (B) with respect to documents that are conventionally filed, two (2) copies of any brief or memorandum shall be provided to the district judge to whom the appeal or motion for leave to appeal is assigned.

Such motion and any related objection(s) and replies shall be governed by the applicable provisions of LR Cv 7.

- (g) **Stays Pending Appeal to the District Court.** When a motion is made in the District Court to stay a judgment, order or decree of a bankruptcy judge or for any other relief pending appeal, the movant shall file the following with its motion:
 - (1) a copy of the judgment, order or decree that the movant seeks to have stayed;

- (2) a copy of the bankruptcy judge's order denying the movant's motion to stay;
- (3) any written decision(s) and/or transcript(s) of any oral decision(s) of the bankruptcy judge stating the reasons for the orders referred to in paragraphs (1) and (2) of this subsection; and
- (4) a memorandum of law setting forth the reasons why a stay should be granted and the legal authorities supporting the motion for a stay.

Such motion and any related objection(s) and replies shall be governed by the applicable provisions of LR Cv 7.

(h) Local Bankruptcy Rules.

- (1) **Authority.** The bankruptcy judge(s) may make and amend rules governing practice and procedure in all matters referred to and pending before them.
 - (2) **Notice to District Court.** The bankruptcy court must give notice to the District Court of any amendment to the bankruptcy court's local rules prior to such rules taking effect. After notice is given, such amendment shall take effect on the date specified by the bankruptcy court, unless abrogated by the District Court.
- (i) Applicability of Local Rules.** In proceedings before a bankruptcy judge, the local bankruptcy rules shall apply. In proceedings before the District Court, these Local Rules shall apply unless the Court otherwise directs.
- (j) Discretion of District Court.** This rule is not intended to restrict the District Court's discretion as to any aspect of any appeal.

Effective 1/3/11 § (f)(6)(C) amended. Effective 12/1/09: §§ (d)(1) and (3) amended. Effective 1/5/09: § (f)(6) amended. Effective 3/17/08: § (f)(7) amended.

LR Gen 111 PHOTOGRAPHING; RECORDING; BROADCASTING

- (a) **General Prohibition.** Except to the extent expressly authorized by the Court, no person shall photograph, record, broadcast, or otherwise transmit any proceeding, event or activity in or from any interior portion of the United States Courthouse or that portion of the John O. Pastore Building that is occupied by the Court. The Court may permit photographing, recording or broadcasting of ceremonial proceedings upon such terms and conditions as the Court may specify.
- (b) **Note-Taking.** Nothing in subsection (a) of this Rule shall prevent any person from taking notes in the courtroom during a proceeding in Court, provided that such note-taking has been authorized by the presiding judicial officer. No authorization is necessary for note-taking by any persons seated inside the bar of the Court or located outside of the courtroom.

Effective 1/3/11: § (a) amended.

LR Gen 201 PRACTICE BEFORE THIS COURT

- (a) **Requirement of Membership in Local Bar.** In order to appear in and/or practice before this Court, a person must be a member of the Bar of this Court unless these Local Rules expressly provide otherwise.

A person who is not a member of the Bar of this Court may not sign any pleading or motion filed on behalf of a party unless these Local Rules expressly provide otherwise.

- (b) **Exceptions to Requirement of Membership.** Notwithstanding the provisions of subsection (a), the following individuals may appear and/or practice before this Court:

- (1) **Attorneys for the United States.** An attorney who is a member in good standing of the bar of another federal district court and each jurisdiction in which that attorney has been admitted to practice may appear and practice in this Court as an attorney for the United States or for any agency of the United States or for an officer of the United States in his or her official capacity.
- (2) ***Pro Hac Vice* Counsel.** An attorney who satisfies the requirements of LR Gen 204(b) may appear and practice in this Court if admitted as *pro hac vice* counsel in accordance with the provisions of LR Gen 204.
- (3) **Attorneys in Removal Cases.** An attorney who is a member of the bar of the Rhode Island Supreme Court, and who represents a party in a case removed pursuant to 28 U.S.C. §1441 *et seq* other than a party joining in the removal request, may appear and practice in this Court in that case, unless that attorney has been suspended or disbarred as a member of the bar of this Court.
- (4) **Parties Appearing *Pro se*.** An individual who is not represented by counsel and who is a party to a pending case may appear on his or her own behalf subject to the limitations set forth in LR Gen 205. A *pro se* party shall be subject to and required to comply with all other applicable provisions of these rules.
- (5) **Attorneys in Transferred Cases.** An attorney who is a member in good standing of the bar of another federal district court, and who represents a party in a case transferred to the District of Rhode Island from another district, may appear and practice in this Court in that case.

Effective 1/3/11: § (b)(5) added. Effective 3/17/08: § (b)(3) amended.

LR Gen 202 ELIGIBILITY AND PROCEDURE FOR ADMISSION

(a) Requirements for Admission. In order to be eligible for membership in the Bar of this Court, an attorney must:

- (1) Be a member in good standing of the Bar of the Supreme Court of the State of Rhode Island; and
- (2) Either:
 - (A) Have completed the course of instruction on Federal Practice and Procedure given by this Court's Board of Bar Admissions, or
 - (B) Have at least five years of experience in practicing before federal courts and certify that he or she has read and understands these Local Rules; and
- (3) Establish to the satisfaction of this Court, that he or she is of good moral character and otherwise qualified and fit to be admitted to the Bar of this Court.

(b) Procedure for Admission.

- (1) **Application for Admission.** An individual applying for admission pursuant to LR Gen 202(a)(2)(A) shall file with the Clerk a completed application form, together with a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court.

An individual applying for admission pursuant to LR Gen 202(a)(2)(B) shall file with the Clerk a completed application form accompanied by a current certificate from the Rhode Island Supreme Court that the applicant is a member in good standing of the Bar of that Court, together with a current certificate from a United States district court that the applicant is a member in good standing of the Bar of that court.

- (2) **Application fee.** An application for admission also shall be accompanied by a check payable to the "Bar Fund" in payment of the application fee established by the Court. The application fee shall not be refundable.
- (3) **Review of Application.** In the case of an application pursuant to LR Gen 202(a)(2)(A), the Clerk shall examine the application, the court certificate and the records indicating that the applicant has completed the course of instruction given by the Board of Bar Admissions. If the Clerk finds that those documents and records indicate that the applicant satisfies the prerequisite for admission, the

Clerk shall notify the applicant and the Chairman of the Board of Bar Admissions and place the applicant on the list for admission. If the Clerk finds that the documents and records indicate that the applicant does not satisfy the prerequisites for admission, the Clerk shall notify the applicant and the Chief Judge of this Court. Said notification shall specify the reasons for this determination.

In the case of an application pursuant to LR Gen 202(a)(2)(B) the application shall be reviewed by the Chair of the Board of Bar Admissions who shall recommend to the Chief Judge whether the application should be approved or rejected. The final decision shall be made by the Chief Judge who shall direct the Clerk to notify the applicant of the decision.

- (4) **Admission Ceremony.** Admission to the Bar of this Court is effected by the granting of a motion made by the Chairman of the Board of Bar Admissions or his designee at an admission ceremony presided over by the Court. In the case of an individual admitted pursuant to LR Gen 202(a)(2)(B), admission is effected upon approval by the Chief Judge of the application for admission.

In order to be admitted, an applicant shall make the following oath or affirmation:

I do solemnly [swear] [affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take the obligation freely, without any mental reservation or purpose of evasion; and that I will demean myself as an attorney, proctor, and solicitor of this court, uprightly and according to the law. [So help me God.]

Upon making the prescribed oath or affirmation, and upon payment of the admission fee established by the Judicial Conference of the United States, the applicant shall be a member of the Bar of this Court. The admission fee shall be paid by check payable to the “Clerk, U.S. District Court.”

(c) **Board of Bar Admissions and Course of Instruction.**

(1) **Board of Bar Admissions.**

- (A) **Establishment of Board.** There shall be a Board of Bar Admissions which shall administer a course of instruction on federal practice and practice before this Court, in particular.

- (B) **Membership.** The Board of Bar Admissions shall consist of eight (8) members or such other number as may be fixed from time to time by the Court. The Board shall be comprised of individuals who are members of the Bar of this Court and who regularly practice before this Court. The Chair of the Board of Bar Admissions shall be appointed by the Chief Judge.
- (C) **Term.** Board members shall serve staggered three-year terms with the terms of one-third of the members expiring on May 31 of each year. At the expiration of his or her term, a Board member who has served three years or less may be reappointed for one additional three-year term.
- (2) **Course of Instruction.** The course of instruction shall cover those subjects determined by the Court, in consultation with the Board of Bar Admissions, and shall include instruction on these Local Rules. Applicants for admission shall be required to attend all sessions unless excused by the Court or by the Chair of the Board of Bar Admissions, for good cause shown.

Effective 1/3/11: §§ (a)(2)(A), (a)(3), (b)(3), and (c)(1)(A) amended; and §§ (c)(3) and (4) and footer deleted to reflect suspension of bar examination requirement. Effective 1/5/09: § (a)(1) amended. Effective 3/17/08: Rule amended to reflect change in name of Board of Bar Admissions and §§ (b)(2) and (b)(4) amended.

LR Gen 203 CONTINUING OBLIGATIONS OF MEMBERS OF BAR

- (a) **General.** Unless otherwise permitted by the Court for good cause shown, in order to remain a member in good standing of the bar of this Court, an attorney must:
- (1) remain a member in good standing of the Bar of the Supreme Court of the State of Rhode Island and all other bars in which the member maintains an active status; and
 - (2) not be suspended, disbarred or found unfit, for any reason, to continue practicing law by any other court or body having disciplinary authority over attorneys.
- (b) **Notifications**
- (1) **By Counsel.** Each member of the bar of this Court shall promptly notify the Court of:
 - (A) any change in the member's name, address, telephone number, fax number, e-mail address and/or law firm name shown on such member's application for admission or if the member has re-registered, on the most recent re-registration form by the member.
 - (B) any disciplinary proceedings initiated or disciplinary action taken against such member and/or any restrictions placed on such member's practice by any court or body having disciplinary authority over attorneys; and
 - (C) any conviction of such member for any crime regardless of whether the conviction resulted from a plea of guilty or *nolo contendere*, was not followed by a term of imprisonment and/or is pending on appeal.
 - (2) **By the Court.** Any notice sent to a member of the bar of this Court shall be deemed delivered if sent to the most recent address or fax number or e-mail address provided by such member pursuant to subsection (b)(1)(A) of this rule.
- (c) **Periodic Registration Procedure.**
- (1) **Renewal of Bar Registration.** Each member of the bar of this Court shall renew his or her bar registration between January 1 and March 31 of every fourth year ("Registration Renewal Period"), beginning with the year 2010. Bar registrations must be renewed even if an attorney has been a member for only a portion of the four years preceding the Registration Renewal Period.

- (2) **Notice by Clerk.** At least 60 days prior to each deadline date for registration, the Clerk shall issue a notice and registration form to each attorney who is then registered as a member of this Court's bar.
- (3) **Method of Registration.** A member shall register by:
 - (A) Completing and filing the registration form provided by the Clerk which form shall include: (i) a certification that the attorney continues to satisfy all of the requirements set forth in subsection (a) of this rule; and (ii) a statement as to whether the attorney has been convicted of a serious crime as defined in LR Gen 213(a)(3) or been disciplined by any other court or body having disciplinary authority over attorneys; and
 - (B) Paying the applicable registration fee established by the Court, except that the fee need not be paid by attorneys employed on a full-time basis by the United States and/or the State of Rhode Island.*
- (4) **Action by the Court.**
 - (A) Except as provided in subsection (B) of this subsection, upon receipt of an attorney's properly completed registration form and registration fee, the Clerk shall maintain the attorney's name on the list of active members of the bar of this Court.
 - (B) If an attorney fails to register in accordance with this Rule or if an attorney's registration form shows (i) that the attorney does not satisfy the requirements set forth in subsection (a) of this rule; (ii) that the attorney has been the subject of disciplinary action referred to in subsection (b)(1)(B) or (iii) that the attorney has been convicted of a crime as defined in subsection (b)(1)(C), the Clerk shall notify the Chief Judge who, then, may issue a show cause order as to why the attorney should not be administratively suspended or why disciplinary action should not be initiated pursuant to LR Gen 209.
- (d) **Effect of Failure to Register.** An attorney's failure to register in accordance with the provisions of subsection (c) may be cured by filing the completed registration form no later than 60 days after the applicable deadline for registration and paying the registration fee and the late fee established by the Court except that the Court, for good cause shown, may permit the attorney to cure more than 60 days after the applicable deadline for registration.

*The bar membership renewal fee was suspended by an order dated January 5, 2010.

An attorney who does not cure a failure to register within the aforesaid 60-day period, or at any extension permitted by the Court, must apply for reinstatement pursuant to LR Gen 215.

- (e) **Use of Registration Fees.** All registration and late fees paid shall be deposited in the Bar Fund maintained by the Court and shall be used only for purposes benefitting the members of the bar of this Court in accordance with the regulations governing the Bar Fund adopted by this Court and any applicable regulations established by the Judicial Conference of the United States.

Effective 1/3/11: § (c) deleted; §§ (d), (e), (f) redesignated as (c), (d), and (e); and §§ (c)(3)(B) and (d) amended.

Effective 1/5/09: §§ (a)(1), (a)(2) and (d)(3)(A) amended.

LR Gen 204 PRO HAC VICE COUNSEL

- (a) **Authorization to Appear and Practice.** An attorney who is not a member of the bar of this Court may appear and practice before this Court in any case in which the attorney has been admitted to practice *pro hac vice*.
- (b) **Eligibility for Pro Hac Vice Admission.** In order to be eligible for *pro hac vice* admission, an applicant must:
 - (1) Be a member in good standing of the bar of another state and another federal district court and the bar in every jurisdiction in which the attorney has been admitted to practice; and
 - (2) Establish, to the satisfaction of this Court, that he or she is of good moral character and otherwise qualified and fit to be admitted to practice *pro hac vice* before this Court.
- (c) **Limit on Number.** Unless otherwise permitted by the Court for good cause shown, no more than three (3) *pro hac vice* counsel may be admitted to represent any party in a case.
- (d) **Application.** An application for *pro hac vice* admission shall be made by completing and filing a form provided by the Clerk, together with a check for the application fee fixed by the Court which shall be payable to the “Bar Fund.” The application fee will not be refunded if the application is denied.

A motion for *pro hac vice* admission shall be signed both by the applicant and by local counsel affiliated with the applicant.

- (e) **Local Counsel.**
 - (1) In order to be admitted and/or remain as *pro hac vice* counsel, an attorney shall be affiliated with local counsel who is a member of the Bar of this Court and who has entered an appearance as co-counsel.
 - (2) Local counsel shall:
 - (A) Sign and be responsible to the Court for the content of all pleadings, motions, and other documents filed or served in the case; and
 - (B) Attend all court proceedings in the case unless excused by the judge for good cause shown; and

- (C) Be fully prepared to assume sole responsibility for the conduct of the case in the event that *pro hac vice* counsel does not appear when required, has his or her *pro hac vice* status revoked or is unable to continue as counsel for any reason.
 - (3) In addition to the required signature of local counsel, *pro hac vice* counsel may sign pleadings, motions, and other documents filed or served in the case. *Pro hac vice* counsel may file pleadings, motions, and other documents with the Court, but only if:
 - (A) the documents have the required signature of local counsel, and
 - (B) local counsel has given *pro hac vice* counsel permission to affix local counsel's signature.
 - (4) In order to ensure that local counsel is able to properly perform his or her duties, *pro hac vice* counsel shall consult with, involve and fully inform local counsel with respect to all matters affecting the case.
- (f) **Admission and Revocation.**
- (1) The district judge to whom a case has been assigned shall have discretion to grant or deny motions for admission *pro hac vice* based upon the applicant's qualifications, character, past conduct and any other factors that bear on the applicant's fitness to practice in this Court.
 - (2) Permission to appear *pro hac vice* may be revoked upon motion of a party or, *sua sponte*, by the district judge to whom the case is assigned if the judge determines that *pro hac vice* counsel has failed to satisfy any applicable requirement of these rules or that the proper administration of justice so requires.
 - (3) No formal hearing shall be required prior to revocation. However, before revoking *pro hac vice* status, the judge shall provide counsel with notice and an opportunity to explain why *pro hac vice* status should not be revoked to the extent that such opportunity can be afforded without disrupting or delaying the proceedings.
 - (4) The revocation of *pro hac vice* status shall not prevent the Court from taking any other disciplinary action against counsel pursuant to any applicable provision of these Local Rules.

(g) Notification.

- (1) *Pro hac vice* counsel shall promptly notify the Court of any change in counsel's name, address, telephone number, fax number, e-mail address and/or law firm name from that shown on counsel's application for *pro hac vice* admission.
- (2) Any notice sent to *pro hac vice* counsel shall be deemed delivered if sent to the most recent address or fax number or e-mail address provided in counsel's application for *pro hac vice* admission or in any subsequent change of address provided by such counsel.

Effective 1/3/11: § (b)(2) amended. Effective 1/5/09: § (d) amended. Effective 3/17/08: § (b)(2) [requiring that petitioning attorneys not be convicted of a serious crime] was deleted; § (b)(3) redesignated as (b)(2); § (d) amended; § (e) reorganized into para. (e)(1)-(4) and (e)(1)-(3) redesignated as (e)(2)(A)-(C).

LR Gen 215 REINSTATEMENT OF MEMBERSHIP

(a) Application for Reinstatement.

- (1) An individual who has ceased to be a member of the Bar of this Court for any reason, including disbarment, suspension, failure to comply with the requirements for continuation of membership, resignation or failure to renew membership in a timely manner, may apply for reinstatement by filing a completed application for reinstatement on a form provided by the Clerk and paying the applicable reinstatement fee established by the Court.
- (2) An attorney who has been suspended also shall file an affidavit of compliance with the provisions of the order of suspension along with the application for reinstatement.
- (3) An attorney who has been disbarred after hearing or by consent may not apply for reinstatement until at least five (5) years after the effective date of disbarment.
- (4) An attorney who was placed on inactive status because of incapacity also shall file, along with his or her application, a written waiver of any doctor/patient privilege with respect to treatment of the attorney during the period of incapacity. In addition, such attorney shall disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the attorney has been examined or treated for any condition or conditions relating to the incapacity since being placed on inactive status and a written consent authorizing each of them to disclose any relevant information and provide any relevant records requested by the Court or special counsel.

(b) Procedure on Application. In ruling on an application for reinstatement, the Court may proceed in any of the following ways:

- (1) Summarily approve or reject the application if the appropriate action to be taken is clear from the face of the application and there are no facts in dispute.
- (2) Designate a magistrate judge or appoint a special counsel to investigate and recommend to the Court whether or not the application should be approved; provided, however, that such recommendation will not be binding upon the Court.
- (3) Promptly schedule the matter for a hearing before the Court, a single district judge designated by the Court or a magistrate judge designated by the Court. However, if a magistrate judge has made a recommendation pursuant to this subsection, the hearing shall not be conducted by that magistrate judge.

- (A) If the hearing is conducted by a district judge, the Court may authorize that district judge to rule on the application without further action by the Court.
 - (B) If the hearing is conducted by a magistrate judge, the matter shall be dealt with in the manner described in Rule 210(d)(1)(B)-(C).
- (c) **Conduct of Hearing.** At the hearing, the applicant shall have the burden of demonstrating by clear and convincing evidence that he or she is of good moral character and otherwise qualified and fit to practice law before this Court, and that the applicant's resumption of the practice of law before this Court will not adversely affect the interests of potential clients, public confidence in the integrity of the Bar of this Court or the proper administration of justice.
 - (1) The Court may elect or appoint a special counsel to present evidence at the hearing and to cross examine the witnesses.
 - (2) The applicant shall have a similar right to present evidence and cross examine witnesses and to be represented by counsel.

Effective 1/3/11: § (c) amended. Effective 3/17/08: § (a)(1) amended.

LR Gen 301 GENERAL

- (a) **Applicability.** These rules govern electronic case filing in the United States District Court for the District of Rhode Island and establish procedures for the signing, filing, service, maintenance and verification of documents by electronic means.
- (b) **Scope of Electronic Filing.** Except as provided in LR Gen 302 and LR Gen 303, all documents submitted for filing in civil and criminal cases by an attorney who has been admitted to the bar of this Court or allowed to practice before this Court, regardless of the commencement date of the action, shall be electronically filed in PDF format using ECF. Documents filed electronically constitute filing with the Court as defined in Fed. R. Civ. P. 5(e) and Fed. R. Crim. P. 49(d).

Effective 1/3/11; Rule added.

LR Gen 302 EXEMPTIONS; EXCEPTIONS; PRO SE LITIGANTS

- (a) **Attorney Exemption/Exceptions.** If filing electronically would create an undue hardship for an attorney, the attorney may request an exemption from the Clerk of Court and permission to file documents conventionally. The request must be made in writing, and must contain a detailed explanation of the reason(s) for the request. The Clerk may grant an exemption on such terms and conditions as are appropriate and reasonable.* **[see Comment, end of Rule]**
- (b) **One-Time Exemption.** An attorney who is not a Filing User may conventionally file documents on behalf of a client in an ECF case without leave of the Court for 21 days from the filing of the first document by the attorney. However, within that 21-day period, the attorney must register as a Filing User, or seek an exemption under § (a) above.
- (c) **Attorneys in Removal Cases.** An attorney who is not a member of the bar of this Court but who is permitted to appear and practice in this Court pursuant to the provisions of LR Gen 201(b)(3) may, but is not required to, register as a Filing User and file documents electronically using ECF.
- (d) **Pro Se Litigants.** All *pro se* litigants shall conventionally file and serve all documents in accordance with the provisions of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of this Court.

Effective 1/3/11: Rule added.

***Comment**

Prior to requesting an exemption, attorneys should seek assistance from the Clerk's Office. The Court offers ECF training sessions as well as computer-based training modules for attorneys and their staff. Also, the Clerk's Office has a workstation available at the Courthouse for any Filing User who needs assistance with electronic filing. ECF training and support information can be obtained from the Clerk's Office and found on the Court's web site at: www.rid.uscourts.gov.

LR Gen 303 SPECIAL FILING REQUIREMENTS AND EXCEPTIONS

(a) Civil and Miscellaneous Case Opening Documents.

- (1) Civil case opening documents, such as a complaint, petition and notice of removal, together with a summons and civil cover sheet, shall be filed conventionally. Also, documents seeking emergency relief under LR Cv 9, such as a request for a temporary restraining order, shall be filed conventionally. The case will be assigned and opened electronically by the Clerk's Office, and the documents submitted will be incorporated into the electronic case file.
- (2) The Clerk's Office will return the signed and sealed summonses to counsel for the plaintiff for service of process. A party may not electronically serve a civil complaint, but shall effect service in accordance with Fed. R. Civ. P. 4.
- (3) Miscellaneous case opening documents shall be filed conventionally along with the prescribed filing fee.

(b) Limit on Size of Documents. No documents shall be filed that are larger than 2.5 megabytes. In cases where a single document is larger than 2.5 MB, the filer shall break the document into files smaller than 2.5 MB before filing.

(c) Other Documents

- (1) The following documents must be conventionally filed and will not appear in the electronic case file:
 - (A) Motions to file documents under seal and documents filed under seal in criminal cases as set forth in LR Gen 102(d);
 - (B) Administrative records in social security cases, IDEA cases and in other administrative review proceedings;
 - (C) The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;
 - (D) The state court record in Notice of Removal actions;
 - (E) *Ex parte* motions and applications; and
 - (F) Consent to Proceed Before a Magistrate Judge.
- (2) The following documents must be conventionally filed, but will be scanned into the electronic case file by the Clerk's Office:
 - (A) Motions to file documents under seal in civil cases as set forth in LR Gen 102(c);

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- (B) All pleadings and documents filed by prisoner and non-prisoner *pro se* litigants;
 - (C) The charging document in a criminal case, such as the complaint, indictment and information;
 - (D) Affidavits for search and arrest warrants and related papers;
 - (E) Fed. R. Crim. P. 20 and Fed. R. Crim. P. 5 papers received from another court;
 - (F) Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement;
 - (G) Petitions for violations of supervised release; and
 - (H) Appearance Bonds.
- (3) The following documents must be filed in a Scanned PDF format using ECF and may not be filed in an Electronically Converted PDF format:
- (A) Rule 4 executed service of process documents; and
 - (B) Affidavits in support of motions or objections with original signatures.
- (4) No document should be placed in the public case file that does not comply with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and LR Gen 102 and the Judicial Conference Policy on Privacy & Public Access to Electronic Case Files.

Effective 1/3/11: Rule added.

LR Gen 304 ELIGIBILITY, REGISTRATION, PASSWORDS

- (a) **Registration.** Attorneys admitted to the bar of this Court pursuant to LR Gen 201 must register as Filing Users of this Court's ECF system prior to filing any documents electronically. Registration will be on an ECF Registration Form provided by the Clerk.
- (b) **Confidentiality of Login and Password.** Once ECF registration is completed, the Filing User will receive notification from the Court of the user login and password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk's Office if they learn that their password has been compromised.*[see Comment, end of Rule]
- (c) **Consent to Electronic Service.** ECF registration as a Filing User constitutes consent to electronic service of all documents as provided in these Local Rules and in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.
- (d) **ECF Registration Separate from Bar Registration.** ECF registration is separate and distinct from the periodic registration requirements and procedures contained in LR Gen 203(c). Even though an attorney is a registered member of the bar in good standing under LR Gen 203, the attorney must register as a Filing User using the ECF Registration Form prior to filing documents electronically.

Effective 1/3/11: Rule added.

***Comment**

Since failure to comply with this provision could cause serious harm to the administration of justice, attorneys are reminded that, as officers of the Court, they are responsible for ensuring full compliance with this provision.

LR Gen 305 CONSEQUENCES OF ELECTRONIC FILING

- (a) **Filing Defined.** The electronic filing of a document through ECF consistent with these Local Rules, together with the transmission of a NEF from the Court's ECF system, constitutes filing for all purposes of the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket maintained by the Clerk pursuant to Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 55.
- (b) **Confirmation of Court Filing.** A document electronically filed through the Court's ECF transmission facilities shall be deemed filed on the date and time stated on the NEF received from the Court.
- (c) **Official Record.** When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed. Before filing a document with the Court, the Filing User must verify the accuracy and/or legibility of the document.
- (d) **Filing Deadlines.** Electronic filing does not alter the filing deadline for that document. All electronic filings must be completed before midnight local time in order to be considered timely filed that day unless a different time is established by court order.

Effective 1/3/11: Rule added.

LR Gen 306 ENTRY OF COURT-ISSUED DOCUMENTS

- (a) **Entry; Force and Effect.** All orders, decrees and judgments of the Court will be filed electronically, and the minutes of proceedings will be entered electronically, in accordance with these Local Rules, which will constitute entry on the docket kept by the Clerk under Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 55. Any order or other court-issued document filed electronically which contains a “/s/” in place of an original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner.
- (b) **Text Orders.** A judge or authorized member of the court staff may issue orders by a text-only entry on the Court’s docket without an attached document. The text-only entry shall constitute the only Court order on the matter and such orders are official and binding. The parties will receive notice of such an order through the NEF.
- (c) **Proposed Orders.** Proposed orders shall not be filed unless requested by the Court. When so requested, the Filing User shall submit a copy of the proposed order to the Clerk’s Office by e-mail in word processing format.

Effective 1/3/11; Rule added.

LR Gen 307 DOCUMENT RETENTION REQUIREMENTS

Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until two years after a final decision has been rendered which disposes of all aspects of the case.

Effective 1/3/11: Rule added.

LR Gen 308 SIGNATURES

- (a) **ECF Login and Password as Signature; Format of Signature Block.** The user login and password required to submit documents to the ECF system shall serve as that user's signature for purposes of Fed. R. Civ. P. 11 and for all other purposes under the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and these Local Rules. All electronically filed documents must include a signature block and must set forth the attorney's name, bar registration number, address, telephone number, fax number and e-mail address. The name of the ECF user under whose login and password the document is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear.
- (b) **Restrictions on Use of ECF Login and Password.** No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.
- (c) **Documents Requiring Multiple Signatures.** The filer of any document requiring more than one signature (e.g., pleadings filed by *pro hac vice* lawyers, stipulations, joint status reports) must list thereon all the names of other signatories by means of a "/s/" for each. By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. A signatory or party who disputes the authenticity of an electronically filed document containing such "signatures" must file an objection to the document within 14 days of service of the NEF. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, in accordance with the Document Retention Requirements stated in LR Gen 307.

Effective 1/3/11: Rule added.

LR Gen 309 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

- (a) **Notice of Electronic Filing.** Whenever a pleading or other document is filed electronically, the ECF system will automatically generate and send a NEF to the Filing User and registered users of record. The user filing the document should retain a paper or digital copy of the NEF, which shall serve as the Court's date-stamp and proof of filing.
- (b) **NEF as Service.** Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Fed. R. Civ. P. 5(b)(2)(E), Fed. R. Civ. P. 77(d) and Fed. R. Crim. P. 49(b).
- (c) **Certificates of Service on Electronically Filed Documents.** All documents filed using the ECF system shall include a certificate of service stating that the document has been filed electronically and that it is available for viewing and downloading from the ECF system. The certificate of service must identify the manner in which the service on each party was accomplished.
- (d) **Exemptions.** Attorneys and *pro se* litigants who are not Filing Users must be conventionally served with any electronically filed documents in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.
- (e) **Time.** Service by electronic means shall be treated the same as service by mail for the purpose of adding three days to the prescribed period to respond.

Effective 1/3/11: Rule added.

LR Gen 310 NOTICE OF COURT ORDERS AND JUDGMENTS

The electronic transmission to a Filing User of an order or judgment through a NEF constitutes notice as required by Fed. R. Civ. P. 77(d) and Fed. R. Crim. P. 49(c). When mailing paper copies of an electronically filed order to a party who is not a Filing User, the Clerk's Office will include the NEF.

Effective 1/3/11: Rule added.

LR Gen 311 TECHNICAL FAILURE; FILING USER SYSTEM FAILURE

- (a) **Definition.** A technical failure is deemed to have occurred when the Court's ECF site cannot accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 p.m. (noon) on a given day. Known system outages will be posted on the Court's website, if possible.
- (b) **Filing Options.** A Filing User experiencing a technical failure may conventionally file the document or send the PDF document to an email address set up by the Court, if it is accompanied by a declaration attesting to the Filing User's attempts to timely file the document using ECF.
- (c) **Relief.** A Filing User whose filing is made untimely as the result of a technical failure of the Court's ECF site may seek appropriate relief from the Court.
- (d) **Filing User System Failure.** Problems on the Filing User's end, such as connection problems, problems with the Filing User's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under LR Gen 311(a) nor excuse an untimely filing. However, the Filing User may conventionally file the document or send the PDF document to an email address set up by the Court, if it is accompanied by a declaration attesting to the Filing User's attempts to timely file the document using ECF.

Effective 1/3/11: Rule added.

LR Gen 312 CORRECTING DOCKET ENTRIES

Once a document is submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk's Office. The CM/ECF system will not permit a Filing User to make changes to the document(s) or docket entry filed in error once the transaction has been accepted. The Filing User must notify the Clerk's Office immediately upon learning of an error in the electronic filing or docketing of a document.

Effective 1/3/11: Rule added.

LR Gen 313 PUBLIC ACCESS TO ELECTRONIC DOCKETS AND FILES

- (a) Public Access at Clerk’s Office.** The public may obtain at the Clerk’s Office during regular business hours electronic access to the electronic docket and documents that have been electronically filed. If a printed copy is requested, a copy fee for an electronic reproduction will be assessed in accordance with 28 U.S.C. §1914.
- (b) Remote Electronic Access.** The public may use a PACER login and password to obtain remote electronic access to the electronic docket and documents at the Court’s Internet site (www.rid.uscourts.gov). A user fee for accessing court information through PACER will be assessed in accordance with 28 U.S.C. §1914.

Effective 1/3/11: Rule added.

LR Cv 5.1 SERVICE AND PROOF OF SERVICE

(a) Proof of Service.

- (1) Proof of service of any document, except those listed in LR Cv 5(d) and (e) above, required to be served on a party or non-party shall be filed with the Court within seven (7) days after service is made. In the case of documents required to be served personally, proof of service shall include a certification by the person making service that the documents were served, the date of service, and a description of the manner in which service was made.
- (2) Failure to file proof of service will not necessarily affect the validity of the service.

(b) Private Process Servers.

- (1) The Court, by order, may appoint qualified individuals to make service of civil process, and the Clerk shall maintain a list of those individuals who have been duly appointed as process servers pursuant to this subsection.
- (2) To be considered for appointment, an applicant shall file an affidavit setting forth the applicant's age, citizenship, criminal record (if any), and relevant experience and qualifications for the service of process. In order to be appointed, an applicant must demonstrate:
 - (A) sufficient knowledge and/or other experience to perform the duties required by law; and
 - (B) sufficiently good character to discharge the duties of a process server.
- (3) At the time of appointment, a process server shall post a bond with the Clerk in an amount fixed by the Court for the faithful performance of his or her duties.
- (4) Appointments may be renewed annually upon the filing of an affidavit stating that all information in the original affidavit and application is correct, together with a bond in the required amount.
- (5) A process server shall serve at the pleasure of the Chief Judge, and his or her appointment may be terminated by the Chief Judge without a hearing.

Effective 1/3/11: § (a)(1) amended. Effective 10/1/09: § (a)(1) amended. Effective 1/5/09: § (b)(2) amended.

LR Cv 16 INITIAL SCHEDULING CONFERENCE

- (a) **Initial Scheduling Conference.** The initial scheduling conference referred to in Fed. R. Civ. P. 16(a) may be conducted by the district judge to whom a case is assigned, or the magistrate judge assigned to the case.
- (b) **Statement of Claims.** At least seven (7) days before the conference, counsel for each party asserting a claim (including a counterclaim and/or cross claim) shall file with the Court a brief (2-3 page) written statement listing the elements, with a short description of the facts in support thereof, that must be proven in order to prevail on that claim or counterclaim.
- (c) **Attendance of Counsel.** Lead counsel and any local counsel are required to attend the conference, unless explicitly excused by the Court prior to the conference.

Effective 1/3/11: § (b) amended. Effective 12/1/09: § (b) amended. Effective 3/17/08: § (b) (re: topics to be addressed at scheduling conference) deleted; § (c) amended and redesignated as § (b); § (d) redesignated as § (c).

LR Cv 26 DISCOVERY

- (a) **Discovery Conference.** Unless the Court otherwise orders, within fourteen (14) days after the last answer or responsive pleading has been filed by all parties against whom claims have been asserted, the parties shall confer for the purposes specified by Fed. R. Civ. P. 26(f); provided, however, that if in lieu of an answer, a motion is filed that, if granted, would dispose of the entire case, the time for the parties' conference may be deferred until not later than fourteen (14) days after such answer or pleading is thereafter filed.
- (b) **Discovery Plan.** Counsel may, but are not required to, present any written discovery plan. However, counsel shall be prepared to present any discovery plan verbally at the initial Rule 16 conference.
- (c) **Close of Discovery.** Unless the Court otherwise orders, pretrial discovery must be completed by the discovery closure date. However, the parties may agree that specified discovery which has been initiated before the discovery closure date may be completed subsequent to that date, so long as such completion does not affect the pretrial schedule or any trial date established by the Court.

Effective 1/3/11: §(c) amended. Effective 12/1/09: § (a) amended. Effective 3/17/08: § (c) added.

LR Cv 54 COSTS

- (a) **Timing of Request.** Within fourteen (14) days after entry of judgment, a party seeking an award of costs shall file and serve on all other parties a bill of costs. Failure to file a bill of costs within that time shall constitute a waiver of any claim for costs unless the Court otherwise orders, for good cause shown.
- (b) **Form of Request.**
- (1) A bill of costs shall be prepared on forms provided by the Clerk's Office and shall specify each item of costs claimed.
 - (2) A bill of costs shall be supported by a memorandum of law and an affidavit that:
 - (A) the amounts listed in the bill of costs are correct; and
 - (B) all services reflected in the bill of costs were actually performed and were necessary to the presentation of the applicant's case; and
 - (C) all disbursements reflected in the bill of costs represent obligations actually incurred and necessary to the presentation of the applicant's case; and
 - (D) all costs are properly claimed and allowable.
- (c) **Taxation by Clerk.** On or after fourteen (14) days following the filing of a bill of costs, the Clerk shall tax those costs which appear to be properly claimed and shall notify all parties of the costs allowed.
- (d) **Motion to Review the Clerk's Action.** The taxation of costs by the Clerk shall be final unless modified by the Court. Any challenge to the costs taxed by the Clerk shall be in the form of a motion, which motion shall be served and filed within seven (7) days after notification pursuant to subsection (c) of this Rule, and shall be supported by a memorandum of law stating the reason for the challenge and the authorities upon which the moving party relies. Within seven (7) days of the filing of the motion, any party objecting to the motion may file a response.
- (e) **Resolution of Motion.** Within fourteen (14) days after a motion to review the Clerk's action is filed, all interested parties shall meet and confer in an effort to resolve the motion. The meeting shall be initiated by the moving party, who shall notify the Court promptly as to whether the issues have been resolved. If all issues have been resolved, the parties shall promptly submit a proposed order. If all issues have not been resolved, the Court will make a final determination with respect to the taxation of costs.

Effective 1/3/11: §§ (a), (b), (c), (d), and (e) amended; Effective 6/16/10: Notice of Errata correcting §§ (a), (d), and (e); and Effective 12/1/09: §§ (a), (d), and (e) amended.

LR Cv 56 MOTIONS FOR SUMMARY JUDGMENT

(a) Statement of Undisputed Facts.

- (1) In addition to the memorandum of law required by LR Cv 7, a motion for summary judgment shall be accompanied by a separate Statement of Undisputed Facts that concisely sets forth all facts that the movant contends are undisputed and entitle the movant to judgment as a matter of law.
- (2) The Statement of Undisputed Facts shall be filed as a separate document with the motion and memorandum. Each “fact” shall be set forth in a separate, numbered paragraph and shall identify the evidence establishing that fact, including the page and line of any document to which reference is made, unless opposing counsel has expressly acknowledged that the fact is undisputed.
- (3) For purposes of a motion for summary judgment, any fact alleged in the movant’s Statement of Undisputed Facts shall be deemed admitted unless expressly denied or otherwise controverted by a party objecting to the motion. An objecting party that is contesting the movant’s Statement of Undisputed Facts shall file a Statement of Disputed Facts, which shall be numbered correspondingly to the Statement of Undisputed Facts, and which shall identify the evidence establishing the dispute, in accordance with the requirements of paragraph (a)(2).
- (4) If an objecting party contends that there are additional undisputed facts not contained in the moving party’s statement of undisputed facts which preclude summary judgment, that party shall file a separate Statement of Undisputed Facts setting forth such additional undisputed facts. Such statement shall be prepared in accordance with the requirements of paragraph (a)(2), except that the additional undisputed facts shall be numbered consecutively to the moving party’s undisputed facts.
- (5) If an objecting party files a separate statement of additional undisputed facts and the movant contests any of those facts, the movant shall file a separate statement setting forth what additional facts are disputed, numbered correspondingly to the opposing party's additional undisputed facts, at the same time it files its reply memorandum pursuant to LR Cv 7(b)(2).

(b) Supporting Documents. Unless otherwise requested or permitted by the Court, only the relevant portion(s) of documents submitted in support of or in opposition to a motion for summary judgment shall be included in the attachments.

(c) Successive Motions. No party shall file more than one motion for summary judgment unless the Court otherwise permits for good cause shown.

- (d) Objections and Replies.** The timing and filing of objections and replies in connection with motions for summary judgment shall be governed by LR Cv 7, unless otherwise directed by the Court.

Effective 1/3/11: § (d) added. Effective 1/5/09: §§ (a)(2) and (a)(4) amended; § (a)(5) added. Effective 4/10/08: §§ (a)(1) and (a)(4) amended. Effective 3/17/08: §§ (a)(3) and (a)(4) amended.

LR Cv 69 WRITS OF EXECUTION

- (a) **Execution.** Except where stayed by statute, rule or order of the Court, a party in whose favor judgment has been entered may execute on the judgment fourteen (14) days after judgment has been entered on a form provided by the Clerk's Office.
- (b) **Requests for Writ of Execution.** A request for a writ of execution shall be accompanied by an affidavit that states:
- (1) the amount due on the judgment and an explanation of how that amount has been calculated;
 - (2) that a demand for payment has been made and refused; and
 - (3) what efforts have been made to recover the judgment.
- (c) **Return of Execution.** An officer to whom a writ of execution is delivered shall make return thereon to the clerk within the time prescribed in the writ unless the Court otherwise directs. If no time is prescribed, the return shall be made immediately after execution or, if execution is not made, within sixty (60) days after delivery.

When a sale is made pursuant to a writ of execution, the return shall be made within thirty (30) days after the sale unless a different time is prescribed by law or by the Court.

Effective 1/3/11: § (a) amended. Effective 12/1/09: § (a) amended.